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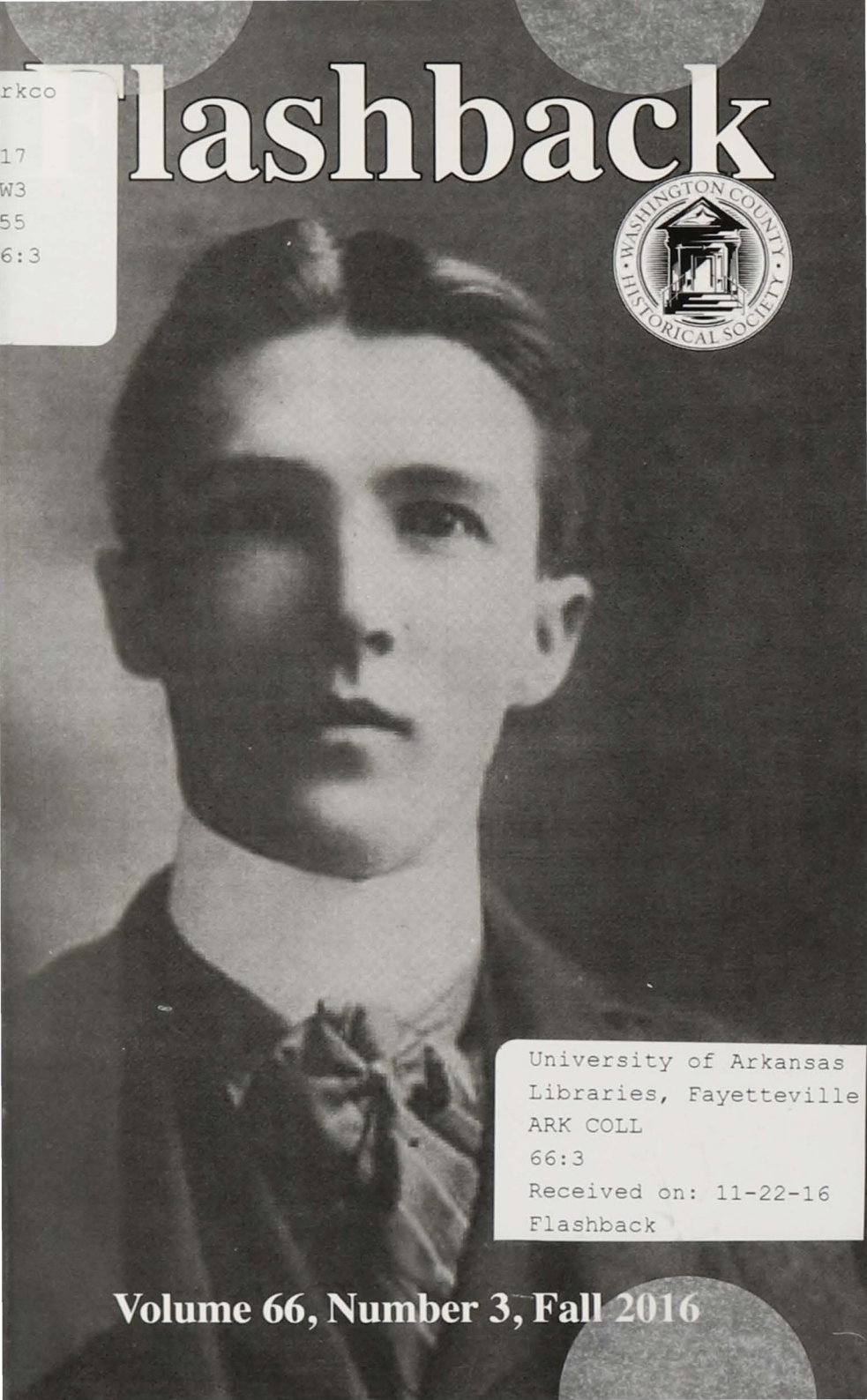

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Volume 66, Number 3, Fall 2016

Washington County Historical Society

118 East Dickson Street, Fayetteville, AR 72701
http://www.washcohistoricalsociety.org
http://www.headquartershouse.org

Submissions

Flashback (ISSN: 0428-5573) is published quarterly in the spring, summer, fall, and winter as an official publication of the Washington County Historical Society. Send all materials for publication to: *Flashback* Editor, Washington County Historical Society, 118 East Dickson Street, Fayetteville, AR 72701.

There is no payment for articles published in *Flashback*. The editor retains the right to edit all submitted articles prior to publication.

Membership

Society membership is invited to those interested in preservation of Washington County history. Annual dues for categories of members are: Senior, Student, Public Library, $15; General, $25; Trail Blazer, $50; Explorer $100; Wagon Master, $250; Pioneer, $500; Statesman, $1,000; Empire Builder, $5,000.

Members are mailed *Flashback* each quarter. Available past issues are $6 each, postpaid. Add $1 postage for issues printed in 1951 through February 1972. Web site: washcohistoricalsociety.org or headquartershouse.org.

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FLASHBACK

Journal of the Washington County Historical Society

Preserving Our Past for Future Generations

Volume 66 Fall 2016 Number 3

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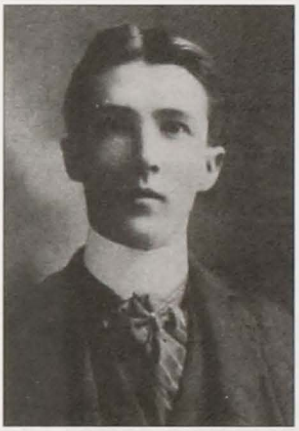


On the Cover: John L. Bean was a doctor was reared in Cane Hill and practiced medicine in Morrow and Lincoln. A letter from one of his patients, who became a driver, assistant and friend in Bean's rural doctoring, gives a behind-the-scenes look at the life of a doctor serving the medical needs of his patients, near and far back into the woods.

Dr. John L. Bean and His Patient Friend

Introduction

Joseph J. Stevens Sr. was born near the town of Clyde, Arkansas, in 1916. His mother died when he was young. When his father remarried he was happily raised in a new home with a step-brother and sister. As an adolescent he lived with Dr. Bean as he recovered from a ruptured appendix and became his friend, driver and assistant. Later he served in the U.S. Army during WWII, was wounded and left for dead in a cave in the Aleutian Islands, then rescued nearly one month later. After many months of physical and mental therapy he was discharged. In his book, The Lion's Share, he writes of his life, including his Army ordeal, as well as his time with Dr. Bean during his adolescence. In 2003 he wrote a letter to Dr. Joe B. Hall that tells of working with Dr. Bean (a life typical of many of the devoted, compassionate old country doctors). The Arkansas Country Doctor Museum has two oral history interviews with Joseph Stevens conducted by Dr. Hall in addition to the letter that follows.

September 3, 2003
To: Dr. Joe B. Hall
Subject: Doctor John L. Bean
From: Joseph Johnnie Stevens, Sr.
Born in Clyde, Arkansas
July 25, 1916

I understand Dr. Bean was born and reared in Cain Hill [sic], Arkansas. He graduated from the college there, and attended medical school in [St. Louis, Missouri]. Dr. Bean was about my father's age, born in 1876.

After his graduation in [St. Louis] he became a doctor, and

opened his office in Cane Hill, right along side or Johnnie Millers Drug Store. He and my dad were friends. They both belonged to the Masonic Lodge. I believe in about 1920, he moved his office to Fayetville [sic]. He stayed there until about 1929. He then moved to Morrow, Arkansas.

When Dr. Bean was in Cane Hill he drove a beautiful horse and buggy to take care of all his patients in their homes. He told me that on cold nights, just like all of the country doctors at that time, when he had finished with the sick he would wrap up in a big warm blanket and go to sleep in the buggy on the way home. I remember Dr. Curry doing that too. The horse would go home and slop at the gate until the Doctor woke up. If he had no more calls he could unhitch and feed the horse, and go to bed.

I never got to know the Doctor well until he moved to Morrow, Arkansas. I was visiting a friend one summer. I sat down on a stool to milk a cow and I got this bad pain in my side. It lasted for about an hour, then eased up a little bit. My friends folks thought I had been eating too many tomatoes. They gave me a dose of castor oil that didn't help any. About two days later my friends dad said, "I don't have time to take you to the Doctor. Do you think you can drive my Model T to see Doc Bean'?" So, I drove down there. It was only about five miles. Doc Bean told me to lay down on that table. He checked my side and said, "Oh my God! You have a ruptured appendix! I am sending you [to] the hospital now!

I won't go into great detail about that, but when I got out they told me it would lake a couple of years to completely heal. I was not to go to school, just take it easy. So one day I was in the Doctors office just loafing around. He got a call on Sky Light Mountain and asked me if I wanted to ride along. (He had a Model A Ford by this time.) I told him sure!

He was a terrible driver, so on the way home I asked him if I could drive. He said sure. We were about half way home when he said, "Now, this is all right. How would you like to drive for me until you heal up?" I asked him if he thought it would hurt my side, and he said he didn't think so, let's try it for a while. I said,

"Okay!" A great friendship started then and there.

When I got home and told my dad I was going to drive and help around the Doctors office to pay him what we owed him, he said, "Fine, you couldn't be in better hands."

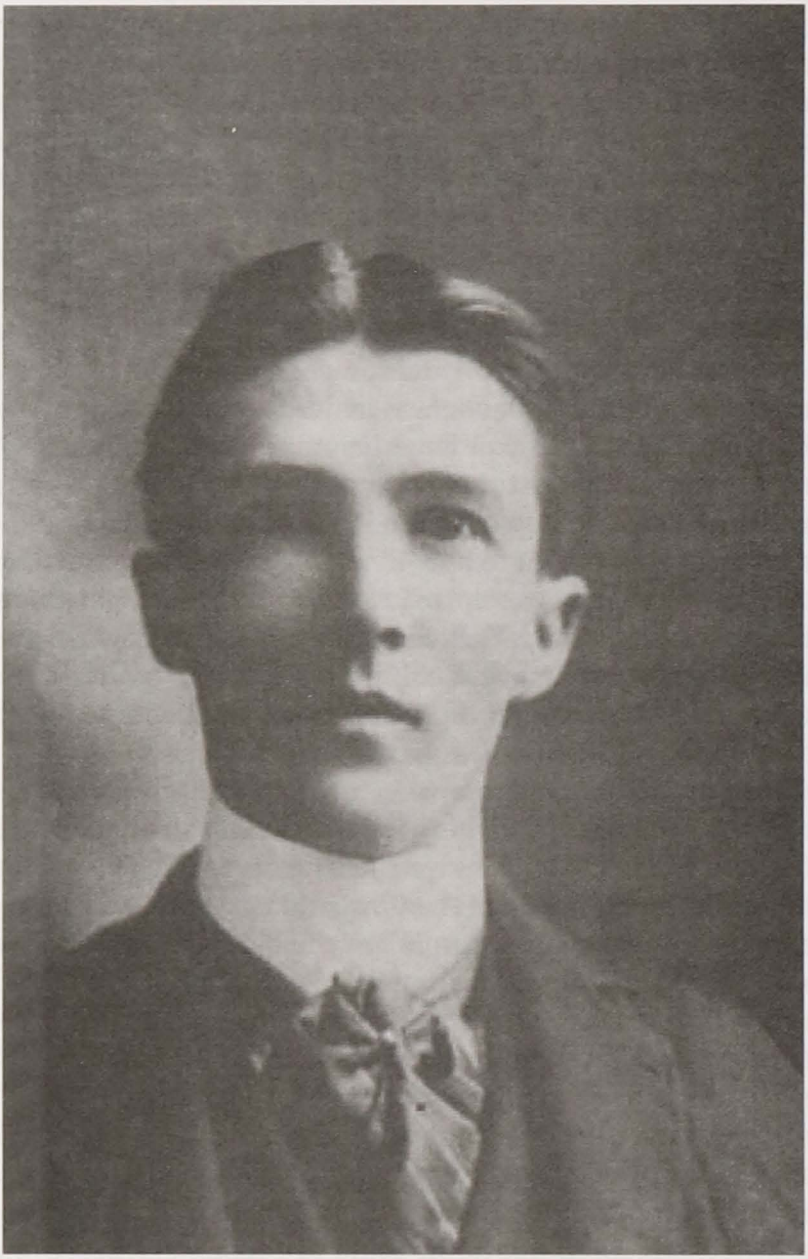
We only lived about two blocks from the Doctor. It appeared that people always got sick and had babies late at night. So when he got a call, he would drive down to our house. He had a little white dog named Ruffles that rode in the car and barked at all the dogs along the way. So all the dogs along the way barked back, including ours! This would wake up all of my family and his and most of our neighbors. The Doctor said, "This is not going to work too good. Would you mind sleeping at my house? That way we can just get up and go. Dad thought that was a good idea. Doc's wife was all for it. So I moved in.

Doc had one daughter named Francine. We would have been in the same grade the first year of high school had I been going to school. We had no TV or radio. In fact we had no power at all. So I studied with her every night. It's called "home schooling" now.

The Doctors office was a big old store building about a block from his house. This was during the Great Depression. Not many people had money to pay doctor bills. So they did all kinds of work for the Doctor to pay him. He burned wood in his office and home. So some people cut wood and delivered it. Some people brought apples, tomatoes, canned fruit, dried fruit, beef, pork, chickens, ... you name it, they brought it!

There was a big family of boys out on Sky Light Mountain whose mother had lots of problems. Doc took care of her. They had a big bill and no money. Two or those boys came down to Morrow and put in shelves, room dividers, and painted the office inside and out. They just did a great job or fixing that old building just like the Doctor wanted it.

We had no Drug Store in town, so the Doctor got his medical supplies in one gallon jugs and mixed it himself: The Doctor had a problem with his hands. I never knew what it was called. When he wasn't trying to do something, his hands did not shake, but



Dr. John Lacy Bean

when he tried to use his hands for anything they started shaking. To try to pour liquid from a big bottle to a small one was darn near impossible. So I would mix his medications for him. He would say here pour this in this bottle until I say stop. Then pour this in until I tell you to stop. He had an old manual typewriter he taught me how to hunt and punch enough to fill out a label. I would lick it and paste it on a bottle. All the label had on it was the persons name and how much to take. (He didn't have to teach me how to gag and spit after licking all them labels. That came naturally!)

Let me say right here, when someone came to the office, or the phone rang and someone was in need of help, Doc didn't ask, "Can you pay," or "Do you have Insurance?" Never, never, was that a question. He just took care of them. Most people would ask, "How much do I owe you Doc?" He would tell them. If they had money, they gave it to him. If not, they would say, "I will pay you when I can, any way I can." He never kept a ledger or sent out bills. He would say, "They know how much they owe me, and they will pay it when they can. If not, I will get by anyway." Now that is dedication. It was an honor system that worked pretty good.

Dr. Bean's office had a stove in it that had a provision to heat hot water. He could scrub his hands with soap and dry them by the stove. He had a stainless steel pan that we boiled his tools in. He did the best he could at the time, and with the equipment at hand, to keep down infection. All of the old bandages and such were burned in the stove.

The Doctor was a very soft hearted man. He tried his best to save everybody, even to the point of calling in another doctor to see if he was overlooking something. But in spite of all this, of course, people pass on, and it would break his heart. He felt he had in some way let them down. He would say, "Some day we will be better prepared, and will be able to do a better job."

Two cases stand out in my mind at this time. I won't mention names, but one was a big strong man in his early thirties that just got sick for no apparent reason. Doc tried everything he

knew. He even brought Doctor Mock from Prairie Grove in, but nothing helped. The man just kept going down hill. One day he passed away while we were there. Doc cried all the way home. For days he was not the same.

One day a young man came in the office crying. He said he was afraid his sister was going to die. His folks would not let him call a doctor, they were going to heal her with prayer. He wanted to know would the Doctor go talk to them and see if he could talk them into letting him try to save her. The Doc said he would try. We drove out to this home. They asked him in and wanted to know why he was there. He asked if he could see their sick daughter. They said he could see her but he couldn't treat her. This was a beautiful girl, about fourteen years old. She had pneumonia.

The Doctor told them without treatment she would not make it. They said if it was Gods will so be it. Doc was devastated, angry, and helpless. They just let that poor girl lay there and die. I never saw the Doc angry but twice all the time I was with him, and that was one of them times. I will tell you about the other time later. That kid brother that had come to the Doc's office left home and I don't think he ever came back.

One day in the fall of the year we were not busy, Doc got a call that a man had been shot way up on the mountain, to come quickly. That was a steep, rough road. The Doc said, "Go as fast as you can." That was music to my ears, for I loved to drive fast and still do. He was bouncing all over that car laughing all the time. Ruffles, the little dog that most always rode on that little shelf behind the seat, thought I had lost my ever-loving mind. We mush [sic] have set a record up that mountain that probably still stands.

When we arrived this man, a distant relative of mine, had a man working for him. They got in an argument about pay or something. This fellow left and came back with a double barrel twelve gauge shotgun. My uncle was culling corn and had an arm full of corn, and that corn saved his life. His left arm, that was around the corn stalks, had a lot of shot gun pellets in it. The left

side of his butt and upper part of his leg did too. This man was hurting bad, but not bleeding bad. The Doc gave him a shot of morphine. He had already had several shots of the old standby white lightning. Soon he was in a jolly mood, and couldn't feel anything. The Doc got the man's clothes off and put a table out on the front porch where we had a lot of light. Remember how I told you about the Doc's hands shaking? These were lead pellets, and the Doctor said they all have to come out. He was having a hell of a time going down in them little holes with what looked like a pair of tweezers. Pretty soon he told me to scrub my hands good. My hands were steady and I could see much better than he could. Under his watchful eye and supervision, I was picking shot out of that man for two hours. When I had finished I wanted to know where he kept that corn whiskey. I wanted some!

The sheriff finally got there and took a report. The man who was shot had a couple of grown sons and a couple of neighbors that the sheriff deputized. They had their horses all packed, and took a couple of good dogs. The Sheriff said, "He is out there in the deep woods. Go get him." They were angry and they took off.

We came back every day for a few days. Doc was checking for infection. There wasn't any, and the man got okay. The boys came back in a day or so. The old man said, "Did you find him?"

One of them said, "Yes, we found him." The old man nodded, and that was the end of that conversation.

Mrs. Bean liked to go to Fayetville [sic] to concerts and such. They had a Chevrolet four door sedan for a family car. Once in a while she would clean me and Francine up and dress up. We would all go to a concert. Boring as hell to us, but she sure got a kick out of it. We all got ice cream and cake afterwards.

Things were going along good for me and the whole Bean family. The Doc had a nice office and a nice Drug Store. The Main General Store in Morrow had "over the counter" medicine and had told the Doc that when he got his office established they would turn that all over to him. That is the second time I saw him angry. He fumed for a few days then we went back over to talk to them again. I had to hold him off that time. I finally got

him out of there. He said, "Tomorrow we go to Lincoln!" It was a larger town, with no doctor. He talked to the town leaders. That day he rented a big old two story house, and a large room in the Hotel for an office.

I had nothing to do in Morrow without him. By then he thought of me as a son and treated me like one. Dad gave me permission to move with him. So we moved.

He still cared for the people around Morrow, same as always. We just had to drive a little farther, but that was fun. He got the biggest kick out of broad sliding around them corners with that car. He would just laugh, and I thought I had died and gone to heaven. (Needless to say, my Dad didn't know about this race driving.)

Soon Doc traded the Model A in on a '32 Ford V8. Now we had some hot wheels. Boy, we had fun with that baby.

For some time Doc had been taking care of a man in Lincoln that had a very successful real estate company, but had gotten hooked on morphine. The Doctor was trying to get him off this stuff. Anyway, it didn't work, but the man ran up a large bill and couldn't pay it. He had lots of property, so they made a deal. He would deed a house over to pay the bill. The house had been rented and needed a lot of TLC.

Again the boys from Sky Light Mountain came to Lincoln and fixed the house up. They added on a large room for an office. Later on they added on more rooms and he had a small clinic. Women could come have their babies there if they wanted to, and he could keep emergencies there a day or so. It worked out very well.

One evening we were sitting out on the front porch where it was a little cooler. A car drove up. Two men got out and one of them was covered with blood. They were from Dutch Mills, a rough little town down on Fly Creek. They had got in a fight and one of them had a nasty cut on his jaw bone as well as an artery was cut.

Thank God Francine and another nurse was there to help the Doctor, or that man would have bled to death. They finally got

the bleeding stopped, but he was too weak to move, so Doc kept him for a day or so. Turned out he was the top bootlegger in that part of the world. The Doctor finally had pretty much what he had wanted all his life, a nice little clinic and a good drug store in town.

Most people were coming to his office for treatment now. I was all healed up and wanted to move on with my life. The Doctor said, "I understand. I sure will miss you." I said, "You won't miss me any more than I will you."

I was a very lucky kid to have had two great role models like my Dad and Doctor John L. Bean.

So I joined the Army. I came home in about a year. As soon as I could I went to visit the

Doctor. I had grown up. He and Francine just thought I looked great in my uniform. I always spent time with them when I came home on leave.

Their neighbors told me that they just went all to pot when they got word that I had been killed in action over seas. They, the Army, and my folks all thought I was dead for a month. Then they found me in a cave, in a coma, but barely alive.

It was quite different the next time I came home. The Doctor knew I was a total wreck physically and mentally. It broke his heart. He couldn't keep the tears back. I told him not to worry, that the Army doctors were going to fix me up good, and they did do their best.

A while after I was discharged and had gone to work in California my Dad had a stroke. I went home. He was much too heavy for mom to handle. I went over to talk to Dr. Bean. He said, "Bring him over here to the clinic. I have a room so he and your mom can stay together. She can be with him all the time, and can fix his meals. We will take care of him."

He didn't want to charge us anything, but I wouldn't do that. I was glad to pay him. He kept Dad there, and did the best he could for him as long as he lived. I came back as often as I could while Dad was there.

The Army doctors told me to stay in California for my health.

I didn't go home for several years, for whatever reason, but when I did Francine had gotten married and was gone. I was gone, and Mrs. Bean had died. The Doctor was all alone, and very depressed. I wanted him to come back to California with me, and just sit on the front porch and do nothing. He had earned it. I would take care of him. But, he wouldn't do it. My heart was there with him. It was very, very hard to leave. I never saw him again.

I understand he stayed there a while longer, then sold out and moved to Wheatville, Oklahoma. He died there. I never knew what year or where he is buried. But one thing I do know, he was a great, loving and compassionate caring man. I loved him with all my heart, and I believe that when I get to heaven, Dr. John L. Bean and my Dad will both be there. I just heard recently, that Francine has already died. I surely love and miss them all.

Joseph L. Stevens

Black Oak Cemetery West of Greenland, Arkansas

By Carole Falkner

Black Oak Cemetery west of Greenland has had a face-lift. A six-month-long restoration beginning in October 2015 has been completed and for the first time in more than fifty years, sunshine brightens the entire cemetery. Old plantings of daffodils, iris, lilies, yucca and a few wild roses are blooming again, because brush, weeds, old logs and rubble have been cleared to bare ground. The most significant discovery is the gravestone of pioneers, Arthur and Mary White Carney, parents of perhaps seven children and hundreds of Carney descendants, still living in Northwest Arkansas.

The cemetery was first written about in Flashback, Vol. 4, No. 2, May 1954:

> "The century-old Black Oak burying ground, atop a mountain 3 or 4 miles west of Greenland, is difficult of access. Years ago, before the Black Oak church and school were destroyed by fire, a country road ran around the rim of the mountain. Now it is necessary to leave the car on the nearest gravel road, near the Martin place, and walk a mile across the Mack Smith farm and through a picturesque woods. At the south edge of the mountain, [it] contains some 300 or more graves, most of them marked with uninscribed sandstone slabs. But the graveyard also sparkles with such pioneer names as Alexander, Combs, Rutherford, Tollett, Carter, Hager, Bivens, Carney, Cate, Hughes and others who lived in Washington County a century or more ago." — Unknown author

Fast Forward to the 21st century and this remote cemetery is still quiet and serene but more easily accessible, thanks to the efforts of Black Oak Cemetery Board members, William Yoes, Georgetta Smith, Joy Lee Kelly, Bill Center (now deceased) and volunteer, Peggy Lewis. With the help of Holly Hope of the Arkansas Historic Preservation Program, the cemetery was placed on the National Register of Historic Places in 1998. This resulted in issues with the landowner (at the time), who closed off the only road to the cemetery. The Board met with the County Judge, and by 2006, they were able to arrange for a road to be built from West Jeter Road to the cemetery. This unpaved, gravel bed through cow pasture and thick woods reaches a mile back behind a locked gate, for which permission to enter must be granted by William Yoes (479-790-9801) or Mrs. Gene Kelly (Joy Lee). One can find the gate on the south side of West Jeter Loop which turns west off Washington County Road 243.

In the application for nomination to the National Register, it was written:

> "...[Black Oak] is significant as an important reminder of pioneer life in Washington County and a link for the families still residing in the county..."

From Arkansas Cemeteries at Rootsweb, Darren Jerome, a descendant of Joel and Pernetty Combs who are buried in the cemetery, wrote,

> "The cemetery contains the graves of John Alexander, first territorial representative of the county of Washington, descendants of several early area families and the foundation of the Black Oak school. The Black Oak Cemetery is a testament to the varied lives of Washington County community members....Their roles as merchants, soldiers, statesmen and homesteaders in early Arkansas can be remembered within the grounds of Black Oak Cemetery."

The 1954 *Flaskback* article continues to say that John Alexander was one of six white men living in Washington County before the arrival of the Cane Hill pioneers of 1827. His gravestone has been damaged and repaired numerous times but is still quite legible after 150 years, indicating that the Alexanders were evidently people of means, for nearly all of their gravestones in Black Oak are finely-fashioned.

There is a fascinating history written about John Alexander and his flaming red hair that the Indians cherished, but that story can be read elsewhere. Today, the small school/church foundation is in plain view at the front of the cemetery but no documentation has been found for that.....neither writing nor photos. It has been said that there were two stone pillars with an iron arch across the top at the entrance to the cemetery, but photos have not been found for those, either. The bases of the pillars are there, but no metal was found. Across the drive toward the adjacent field is evidence of another structure of some sort that could have been an outhouse. What Darren Jerome calls the original gate is still there and it is locked. But he was wrong to use the word "original" as this gate seems to have been placed there after 1900.

One can now find a most accurate list of burials on the Internet's Find-A-Grave site for Black Oak, Greenland. Close inspection will show that a 28-year-old man married a 47-year-old woman of prominence after her first husband died. She lived to be 91 and her husband died a year later at age 68. Then there is the one-of-a kind gravestone of Mary Yates: hand-made and very unique. Long lost Caroline Hager, wife of Samuel Hager and mother of Caroline and Eva Hager, was found to be buried next to her husband, her name faintly scratched into the cement that covered her grave. The two entwined, stone hearts of Nichols and Winnie Carney are in pristine condition compared to old sandstones or rough cut fieldstones nearby. Claud R. Martin was a World War I Veteran: 83rd Division. W.M.A. Bates' gravestone is written entirely in ornamental script handwriting. The inscription reads, "This beneath the toom I lay The debt you all

must shortly pay."

The most recent burial seen on a stone is Marion H. Cate, (1895-1935). The most recent burial (not marked as of this date) is 1936: Robert Eugene "Robbie" Swafford, the infant brother of Joy Lee Swafford Kelly and Virginia Swafford Madewell. The oldest recorded burial is Martin Carter, birth date unknown, death date 1843, parents unknown. But we are certain that there were several burials long before that time.

In October of 2015, Forever Restoration, a company owned by cemetery conservator Alvin Derby, was hired to restore Black Oak Cemetery by the Washington County Cemetery Preservation Group (WCCPG), after they were awarded a $10,000.00 grant from the Arkansas Historic Preservation Program. Alvin, with his brother-in-law Charley "Gene" Bradshaw and a small crew, spent six months removing logs, dead trees, shoulder-high brush and repairing over twenty-five damaged gravestones. This has resulted in a beautifully restored burial ground of which descendants can be proud. When the ground was cleared, sunshine let in, grass allowed to grow, flowers to bloom, a thorough search was done to find all marked stones. There are many sandstones in the back of the cemetery, some marble stones throughout and only a few granite stones.

This monumental task resulted in a plot map that shows approximately 284 burials in the cemetery. There are 84 marked gravestones and 216 fieldstones that have no markings. Getting an accurate count of burials was difficult due to the fact that it seems that family groups took over small areas, resulting in a lack of rows side-to-side and front-to back. Sometimes footstones that were placed in the 1850's were as large, or larger, than headstones. It took a great deal of time to determine which stones were footstones or unmarked headstones, and there could still be some questions, but this count is probably as accurate as anyone can get, due to the elimination of undergrowth and debris. Alvin Derby and Shelba Yoes continue to update much of the information on Black Oak Cemetery, Greenland, for FindAGrave. It should be noted that several previously listed

burials have now been moved to their proper places in Baptist Ford Cemetery and Black Oak (Winslow) Cemetery. These are local cemeteries also located in south Washington County, Arkansas.

The Washington County Cemetery Preservation Group (WCCPG) has been active for over three years. It has 501c3 status, designating that it is a non-profit group. Present officers of WCCPG are President Mike Freels, Vice President, Judy Faulkner, Treasurer Bob Young, Board Member Carrie Davis. Its Mission Statement is,

> "To identify, document, and promote the preservation of cemeteries and burial sites, marked and unmarked, located in Washington County, Arkansas; To educate about Arkansas cemetery and burial laws and preservation guidelines; To conduct any activity related to the above purposes in a lawful and ethical manner."

The public is encouraged to contact one of these people or contact WCCPG for more information about how volunteers can get involved with Black Oak Cemetery Greenland Preservation Effort, or with restoration efforts in other cemeteries. In particular, WCCPG and the Black Oak Cemetery Board Members are asking the public to help in locating present-day descendants and/or interested parties who will join the present Board Members in assisting in further work needed at Black Oak. Keeping this Nationally Recognized cemetery in pristine condition will be an ongoing effort. Mowing, fencing, erecting a sign, are just some of the things yet to be done.

Several pioneer families buried in Black Oak are listed below, with names, dates, and locations. Some of this information was collected from UN-documented sources and is not meant to be an accurate accounting, but only a guide for families to help with their own research.

John Alexander (1777-1860, age 83) was the son of Captain

Stephen Alexander (1749-1831), a Revolutionary War Patriot, and Martha Wilson (1754-1843), of Mecklenburg, North Carolina. In 1798, John married **Jane Stephenson** (1779-1873, age 93). She was the daughter of Alexander Stevenson and Margaret Graham Stevenson. John and Martha were married in Pendleton, South Carolina, and by 1826 they were living in Washington County, Arkansas. Black Oak Cemetery achieved status of National Register due to the many pioneer families buried here, but mostly due to John Alexander representing Washington County in 1829 in the first Arkansas Legislature.

There are two articles in the *History of Washington County, Arkansas* (published by Shiloh Museum) about John and Jane Alexander and their children that tell about their settlement in Northwest Arkansas. They had joined five other families (two McGarrah families, two Simpson families, and a Shannon family).

> "They were trespassing on Indian lands. They each had a small log cabin and a field of corn not quite mature, when a command of soldiers came from Fort Gibson and used swords to cut down the corn and try to move the families off the land. As soon as the soldiers returned to the fort, the six families shocked up their corn and remained in their homes. They had no breadstuffs in their homes that year, so reported John's granddaughter, Ella Alexander, but they planted the immature nubbins the next year and had plenty and for seed."

The article goes on to say that by 1836, tax records in Little Rock showed that John had 240 acres of prime quality land, as well as one horse and eight cattle. Tax records for 1837 show he had 320 acres.

Standing on this remote, Black Oak hilltop and looking down over the valley where these pioneers and others eked out a living 180 years ago is an awesome experience that this writer hopes

all descendants will come to know. We encourage Alexander descendants, as well as all other descendants of the pioneers buried in Black Oak Cemetery, to make at least one visit there. We also have high hopes that descendants will offer financial support to the Black Oak Cemetery Board for upkeep and maintenance.

John's gravestone was broken many years ago and the repair made then was not a good one. It was broken a second and third time and is now back together once again, but the previous breaks and current repair show great damage. The base is sitting on top of the ground and should be lowered, but it has been determined that all is too fragile to risk doing that. Jane was buried next to John but her gravestone is gone. Only the base remains. A thorough search for her stone, under ground and nearby, has not been successful.

John and Jane had eleven children: Sarah M. Alexander (1798-1863), Abigale Alexander 1801-1892, Samuel Stevenson Alexander (1804-1863), Jane Alexander (1807-1869), Tempa Alexancer (1809- ?), Menerva Alexander (1813-1863), Narcissa Alexander (1815-1897), Frances "Fannie" Alexander (1817-1894), John M. Alexander (1819-1863), Mary "Polly" Alexander (1820-1845), William Long Alexander (1823-1912).

- Sarah married William Daly Reed (1783-1865) and they are probably buried in Black Oak, although no gravestones were found for them.
- Abigale "Abby" Alexander Marrs, in 1848, married John T. Tennison (1825-1893). Their names are both on the largest gravestone in the cemetery, which was on the ground for many years before the recent repair.
- William Long Alexander is buried next to his wife, Mary Elizabeth Johnson Alexander, in Campbell Church Cemetery, Washington County. Two of their children, James Robert Alexander (1853-1853) and William Sherman Alexander (1865-1882) are buried in Black Oak.
- Mary Ann "Polly" Hughes Alexander (1823-1886), daughter-in-law of John and Jane, and wife of their son, John M. Alexander, is buried inside the back enclosure with

daughters, Nancy Jane (1845-1864) and Martha A. Alexander (1848-1880). (John M. Alexander died in Burnet County, Texas.) A third daughter is also buried in the cemetery, "Infant" Alexander (1853-1843). A date is written on the top of the enclosure on the west side: "Nov. 11, 1886", the death date of Polly Ann. There is some question about the fourth burial inside the enclosure: William Hughes, born 1840 and died 1861, age 21, is not the brother of Polly Ann, as some claim. Her brother, William Long Hughes, was born in 1823/died 1912. Could this William be a son? a nephew?

Arthur Carney (1760-1840, age 80) was the son of Arthur Carney, Sr. (1732-1783, of Guilford County, North Carolina) and Elizabeth Adderton Carney (1733-1769, Rowan County, North Carolina). In 1797, he married **Mary White** in Guilford County, North Carolina.They moved to Jefferson County, Tennessee where seven of their children were born. Children were Joseph Carney (born 1799), Margaret Carney (1803-1862), Mary Bell "Polly" Carney (1810-1891), Sussanah Carney (1811-1861), James William Carney (1812-1882), Thomas Cate Carney (1813-1880), Penelope Carney (1821-1870), Reuben Carney (1827-?).

Arthur and Mary had approximately 64 grandchildren, 51 great grandchildren, and hundreds of descendants still living in Washington County. Both names are on the same stone which is located directly behind the first stone enclosure close to the northwest corner. The inscriptions were handmade and are quite faint. There was no base to be found and this stone was left flat on the ground, face down to protect what little of the writing still remains. Some of their children and grandchildren are buried in Black Oak.

- Joseph Carney married Gertie Grigsby (of Hawkins County, Tennessee).
- Margaret Carney married Enoch Monroe Hays. They had 10 children.
- Mary Bell "Polly" Carney married David Carter (see below).
- Sussannah Carney married Thomas Cunningham Patton.

They had eight children, most of whom died in Texas.

- James Carney married Nancy Graham. They had seven children. James is buried in Black Oak.
- Thomas Carney married Madeline Anne Irvin and they had eight children.
- Penelope Carney married Young Bynum Bine Rickman. They had 8 children.
- Reuben Carney married Melinda Rutherford. Their children were Mary Elizabeth (1848-1811), Martha (1850-), Sarah (1852-) and Eliza M. (1854-).

David Carter (1809-1889) was born in Tennessee, the son of Adam and Winnie Cate Carter. In 1833, he married **Mary Bell "Polly" Carney** (1810-1891) in Jefferson County, Tennessee. David lived his later years in Fayetteville and died of pneumonia at age 80. The inscription on his gravestone reads, "Gone but not forgotten." Mary's inscription is the same.

They had seven children and at least 40 grandchildren. Children were: Susan Carter (1834-1862), Thomas Carter (1836-1900), Reuben C. Carter (1839-1914), Adam Carter (1843-1924), Penelope Jane Carter (1847-1914), Margaret Elizabeth "Bettie" Carter (1854-1932), James Andrew Carter (1854-1927). Hundreds of their descendants are now living in Washington County.

- Susan Carter married Ferdinand Tollett; both of whom were buried in Black Oak.
- Thomas Carter married Margaret Jane Henson.
- Reuben Carter married 1) Sarah Jane Stevenson (1842- ?) in 1859, Washington County, AR and 2) Nancy Emeline "Emma" Pettigrew (1852-1923); Children of Reuben and Sarah.
- Henry Clay Carter (1860-1916 – Black Oak); Reuben and Nancy: Isa Carter 1868-), Nora Carter (1868-?).
- Adam Carter married Mary Malissa Sawyer (1850-1891) and they had at least five children (Thomas J. Carter, John F. Carter, Mary L. Carter, Garland E. Carter, Margaret E. Carter); .Penelope Carter married 1) Seborn Andrew Sutton and 2) Samuel Lewis Woolsey;
- Margaret Carter married David Lawrence Tate; James Carter married Elizabeth G. Mary McKnight and they had

two sons and five daughters (Frederick David Carter, Thomas Edward Carter, Emma Dallas Carter Suttle, Lillian Lawrence Carter Tenant, Mrs. Auda Carter Crider; James Roscoe Carter; Margaret C. Carter Dameron.

Charles Cate (1805-1869, age 64) was the son of John and Elizabeth Maynard Cate, of Jefferson County, Tennessee. In 1826, he married **Rachael Thornburg Cate** (1810-1863, age 53). His gravestone reads, "Sacred to the memory of Charles Cate." Rachel's stone reads, "Here are they that keep the commandments of God and the faith of Jesus." Charles and Rachael had least 28 grandchildren grown with children of their own before the year 1900.

They had at least six children and more than 28 grandchildren: Henry Thornburg Cate (born 1827-1898, age 71), buried in Black Oak; Telitha Emaline Cate (born 1829); twins Obediah Charles Cate (born 1831) and Luvicy Jane Cate (1831-1857, age 26); and buried in Black Oak, Phebe Cate (born 1834), Margaret Cate (born 1838), and one perhaps one other.

- Henry T. Cate's gravestone inscription reads, in part, "Protect me O God...". His wife, Mary Jane Crow Cate, is buried next to him. The inscription on her gravestone reads, "No pain, no grief, no anxious fear can reach our loved one sleeping here." Henry T. and Mary Jane had eight children: William C. Cate, Charles A. Cates, Jasper M. Cate, James C. Cate, Margaret C. Cate, Emma Cate, Amos Cate and Mary Anne Cate.
- Luvicy Cate was married to William Long Alexander, who is buried in Campbell Church Cemetery, West Fork, Arkansas with his second wife, Mary E. Johnson. William and Mary had at least once child, Tempa Alice Alexander (1863-1903).

Levi Combs (1796-1886, age 90) was born in Rowan County, North Carolina, the son of Dorothy "Dolly" Combs (1753-1838). In 1817, he married **Sarah "Sary" Arrington** (1792-1859, age 68) in Wilkes County, North Carolina, and they were in Fayetteville by 1833, when Arkansas was still a territory. There is slight

evidence that Levi was buried next to Sarah. Known children, all buried in Black Oak, were Joel Arrington Combs (1818-1874), Elizabeth Frances Combs (1819-1886), Alfred Bennett Combs (1828-1864). His gravestone which was provided by the U.S. government reads: A.B. Combs CO. D. 1 ARK. CAV. There are no dates. Alfred Bennett Combs' pension information shows that he was in the Union Army when he became ill and was sent home; he died of pneumonia.

- Joel Combs married Pernetta Bloyed Combs (1825-1913). The inscription on his Stone reads, "Gone Home", and on her stone, we see her name as "Pernetty" and the inscription, "They shall rest from their labors and their works do follow them". Joel and Pernetty were parents of seven children, among whom were Caldonia Combs Rutherford, Rev. Miles M. Combs, and Elizabeth Frances Combs Martin.
- Elizabeth Combs married Henry Clay Martin (1844-1922). Known children were Edward Henry Martin (1874-1932), Willie Walter Martin (1877-1879), and James C. Martin (1884-1950). Elizabeth and Henry are buried in Black Oak along with Edward and Willie. Henry's stone has a Masonic emblem at the top and "H.C. Martin" underneath. His inscription reads, "In honest man's the noblest work of God." Edward's stone says, "A little flower of love that blossomed but to die. Transplanted now above to bloom with God on high."

Henry Clay Martin (1844-1922) was the son of James (1807-1884) and Elizabeth Ann Combs Martin (1819-1886). In 1868, he married Frances Elizabeth Combs. She was the daughter of Joel Arrington Combs (1818-1874, Wilkes County, North Carolina) and Pernetty Bloyed Combs (1825-1913). Children of Henry and Frances Elizabeth were Milas Andrew "Andy" Martin (1869-1879), Annie Martin (1872-1943), Joel E. Martin (1874-?), Edward Henry Martin (1874-1932), Willie Walter Martin (1877-1879, James Clyde Martin (1884-1950), Maud M. Martin (1886- ?).

- Annie married A.J. Blakemore (1857-1939). They both died in Texas.
- Edward married 1) Estella Etta Carney Martin (1874-?) and 2) Unknown Spouse. Edward and Estella had seven children: Claud, Gertrude, Lillie, Lula, Alma, Paul, Arthur). Edward, and son Claud are buried in Black Oak. Estella is buried in Baptist Ford Cemetery.

Nancy Marie Ferguson Rutherford (1836-1888), daughter of J. C. Ferguson of Virginia, married in 1853, **William Bright Rutherford** (c1827-?). He was the son of Robert (1800-1864) and Anne Tipton Rutherford (1803-1880). The U.S. Federal Census of 1860, shows that Nancy and William had two living children at that time: Harriett Rutherford (born 1856) and John Rutherford (born 1854). Nancy Marie is buried in Evergreen Cemetery, Fayetteville, Washington County, Arkansas. William was a Union soldier in the Civil War.

Two previous children of William B. and Nancy Marie were Elizabeth A. Rutherford (1854-1854) and George A. Rutherford (1855-1856. They are buried in the far back of the cemetery, behind the back enclosure, with two later children, Nanny O. Rutherford, (1875-1876) and Infant Son Rutherford (1873-1873).

Nancy C. Miller Rutherford (1836-1873) was married in 1860, Washington County, Arkansas, to **William M. Rutherford** (1839-1912). He died in Ironside, Malheur County, Oregon at age 73, where three of his children were living (Henry, John and Mary). Nancy and two of their children are buried in the center section of the Black Oak: Thomas McDonald Rutherford (1862-1863) and Samuel C. Rutherford (1873-1873). Nancy's father is also there: Thomas Miller (1784-1867). Other children of Nancy and William M. were: Malinda E. Rutherford (1864 - ?), John A. Rutherford (1866-1908), Sela C. Rutherford (1869- ?), William Benjamin Rutherford (1871-1933), George E. Rutherford (1879- ?), Johnathan O. Rutherford (1880-1956), Mary S. Rutherford (1883- ?), Henry M. Rutherford (1884-1953), Virginia Jane Rutherford, (? -1879).

Ferdinand Gallatin Tollett (1828-1871, age 43) was the

son of Henry Clay Tollett (1793-1871) of Montgomery County, Virginia) and Eliza Brown Tollett (1795-1885). His sister, Harriett Tollett (1833-1905) and brother, Edward Franklin Tollett (1831-1831) are both buried in Black Oak. In 1858, he married **Susan Carter Tollett** (1834-1862) in Washington County, Arkansas. The inscription on Susan's gravestone reads, "Here are they that keep the commandments of God and the Faith of Jesus."

A son, James R. Tollett (1862-1863) is buried with them. Another son, Edward Lafayette Tollett (1859-1837) who was married to Sarah J. Tollett (1855-1928) is buried in Fairview Memorial Gardens, Fayetteville, AR. Ferdinand Gallatin Tollett was a Confederate soldier during the Civil War in the 34th Regiment, Arkansas Infantry, Company A.

Please direct questions/comments about volunteering to Washington County Cemetery Preservation Group: WCCPG, Post Office Box 9212, Fayetteville, AR 72703-0021; WCCPG@aol.com Questions concerning families and burials can be directed to Alvin Derby: derbyjoplin@aol.com

End Notes

1. "Black Oak Cemetery, near Greenland" *Flashback*; Vol. 4, No. 2, May 1954, pages 25, 26
2. "Black Oak Cemetery, Greenland, Washington County, Arkansas," Darren Jerome; Arkansas Cemeteries at Rootsweb; submitted December 6, 2004.
3. *History of Washington County, Arkansas*, Shiloh Museum, Springdale, Arkansas, 1989, page 818.

Solving the Mystery of James Boone's Jackson Presentation Cane

EDITOR'S NOTE: The author of this article, Margaret Ann Holcomb is a descendant of William Boone, brother of James Monroe Boone.

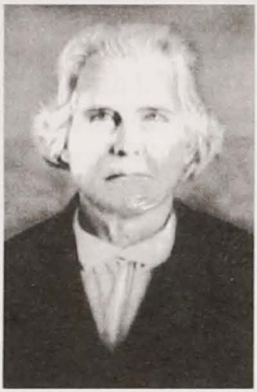
By Margaret Ann Holcomb

Andrew Jackson was known to have native hickory harvested from his Hermitage, Tennessee, plantation that he would have made into custom presentation canes. There are a few surviving examples. One of these canes was recently acquired by the Arkansas Country Doctor Museum in Lincoln, Arkansas. According to records that accompanied the cane, it is made of hickory with a solid silver pommel. It measures 34 inches long. On top of the pommel it is engraved "To James Boone from his Son." On the side of the pommel is engraved "From Hermitage of Gen' Jackson."

The museum's interest in the cane was prompted by the identity of the named recipient, James Boone. Boone is memorialized by the museum for his service as a physician as early as 1830 in Northwest Arkansas, known then as Arkansas Territory. In addition to his service as a physician, Boone is also remembered for his service as a Whig delegate to the Constitutional Convention in 1836 that resulted in statehood for Arkansas. He was a representative to the first Arkansas Legislature in 1836 and in 1837. Adding this historic piece of memorabilia would provide additional insight into the man.

The cane posed a bit of mystery to curators, however, since its presentation to Boone is undocumented in any historical records available to the museum. How and when did Boone merit

one of Jackson's canes? The inscription "from his Son" on the pommel presented a further mystery. The words precluded a presentation to Boone by Jackson himself. Did the cane perhaps fall into the hands of one of Boone's sons that they then gifted to their father, or was there another explanation? A review of Boone's life was undertaken as the first order of business, to begin to address these questions.



James Boone

James Monroe Boone, whose great-grandfather, Benjamin Boone, was brother to Squire Boone, father of the pioneer explorer Daniel Boone, was born in Rowan County, North Carolina, on December 12, 1788. James Monroe moved with his parents and siblings to Lincoln County, Tennessee, around 1812. Soon after that move, James and his brother, William, answered President Madison's call for volunteers in what became known as the War of 1812, enlisting in nearby Bedford County in the First Regiment of the Tennessee Volunteers. According to payroll records, the two brothers served at the rank of private from December 10, 1812, to February 13, 1813. Their regiment participated in Andrew Jackson's troubled expedition to Natchez, Mississippi Territory. A recounting of the experience details challenges the Boone brothers would have encountered:

> In 1812, President James Madison called upon Tennessee governor Willie Blount to send 1,500 troops to defend "The Lower country." Over 2,000 volunteered. From thereafter Tennessee became known as the "Volunteer State." In December General Andrew Jackson led an army of Tennessee volunteers to Natchez, Mississippi Territory. The cavalry rode along the old Natchez Trace. The infantry floated down the Cumberland,

Ohio, and Mississippi River on flatboats. Their goal: defense of the lower Mississippi region. In mid February 1813 the two columns rendezvoused in Natchez expecting a hero's welcome. Clothing was brushed and repaired, arms burnished, faces shaved and hair combed or powdered.

Instead of martial glory, these soldiers found their services soundly rejected. Jackson was ordered to dismiss his men in the field without any provisions to return them home. With no supplies and no support from the country they sought to serve, Jackson marched his command the 450 miles back up the Trace sharing in the privations and hardships of his men. He was, as they observed, "As tough as Old Hickory." The name stuck.[1]

September 1, 1825, by then a practicing physician in Tennessee, Boone married Sophronia "Sophia" Smith in Murfreesboro, Rutherford County, Tennessee. He and his wife likely participated in a gala event held on January 8, 1828, in Murfreesboro that Jackson attended, to commemorate the victory of New Orleans in the War of 1812.

Years after the war, Murfreesboro hosted a celebration for the victory of New Orleans on January 8, 1828. Murfreesboro invited Jackson who decided to come for the festivities. The town public square witnessed several parades and other festivities. They also held a dinner in the courthouse, and had a ball in his honor at the Washington Hotel that was on the square. John Spence witnessed these events and noted,

"At dawn of day, the ears of the citizens were saluted by a discharge of musketry of the Murfreesboro Sentinels, a military company, which had paraded for the purpose. The revile played another round fired. After going through various military evolutions, the com-

pany were dismissed to 11:00. They again paraded and marched in order to the court house, where they partook of an excellent dinner prepared for the occasion by Mr. Irwin in the senate Chamber as a dining room."

He continued discussing the ball, "The celebration concluded in the evening by a splendid dance and numerously attended. The ball room was prepared by Mrs. Bell, ornamented with busts, life size, that of the Chieftains, ornamented with a wreath of hickory and the various plans of siege of the battle of N. Orleans, also portraits of distinguished heroes of the late war." These activities symbolize how the War of 1812 helped to elect Andrew Jackson President.[2]

Boone's military service alongside Jackson and his likely association years later give plausible explanation to how he might possibly have endeared himself to his former general sufficiently to warrant a cane. However, the question of the cane's inscription, "from his Son" remained. Could one of Boone's sons have somehow obtained the cane and subsequently given it to his father?

James Monroe and Sophia had two sons born in Tennessee, Daniel Thales (b. 1826) and Benjamin Franklin Boone (b. 1828). The four of them moved to Arkansas Territory around 1830. Homesteading first on land west of present day Greenland, Arkansas, Boone and his family eventually settled in an area called Boone's Grove, now known as Elkins, Arkansas. Sophia gave birth to three more children: Euler Bernoulli (b. 1831), Cornelia Venturia (b.1832), and Lafayette Boone (b. 1834). Sophia died on May 22, 1835, just a few months before the death of three-year-old daughter Cornelia.

Andrew Jackson died June 8, 1845. At that time, Boone's four sons would have been around age 19, 17, 14, and 11 respectively. Boone died eleven years later, in 1856. Boone's sons would have reached adulthood by then, however the mystery remained how any of them might have come into possession of the cane,

and then made a presentation to their father before his death.

Another line of inquiry opened on the discovery of an entry in Andrew Jackson's will. In the last will and testament of Andrew Jackson dated June 1, 1843, Jackson delegated to his adopted son, Andrew Jackson Jr. the task of distributing canes that might remain in the Jackson estate after his death:

> Lastly, I leave to my beloved son all my walking-canes and other relics, to be distributed amongst my young relatives — namesakes — first, to my much esteemed namesake, Andrew J. Donelson, son of my esteemed nephew A. J. Donelson, his first choice, and then to be distributed as A. Jackson, Jun. may think proper.[3]

That Jackson Jr. might have been the one to pass the cane to James Boone became an even more likely explanation when further research documented the fact that Jackson Jr. was known to have distributed other artifacts to deserving recipients as instructed by his father.

> On December 30, 2014, The Hermitage announced the recovery of a gold box that Andrew Jackson Jr. distributed from the Jackson estate according to provisions in Jackson Sr.'s will. The prized possession, a presentation box given to Jackson Sr. in 1819 by the mayor of New York City for his bravery in the Battle of New Orleans, was bequeathed by Jackson Jr. to General Ward Burnett as the most important person from New York in the next war after the War of 1812, or the Mexican War. The top of the box carries the original inscription to Jackson Sr., and the bottom of the box houses an added inscription by Jackson Jr. for its presentation to Burnett.[4]

Given this evidence, it seems most reasonable to conclude

that the inscription "from his Son; refers to Jackson Jr. rather than one of Boone's sons. Since Jackson Sr. is identified by the second inscription as Gen' Jackson, it seems safe to presume that the cane was produced during the 1820s before he became president, but given this inscription "from his Son," had remained in his collection until after his death. Though the occasion is unknown, Jackson Jr. must have been the one to present this cane to Boone sometime after Jackson Sr.'s death June 8, 1845, and prior to Boone's tragic death June 11, 1856.

Boone freed his slaves in 1854, providing them a wage and a place to live afterward and by some accounts sharing the profit from his estate. He was murdered at his home in 1856, apparently in a dispute over money with a couple of the freedmen, perhaps with the indirect involvement of one of Boone's extended family members. Boone was buried near the site of his first home west of Greenland, Arkansas.

The family suffered loss and became scattered during and after the Civil War. Three sons became lawyers: Euler Bernoulli, "E.B.," who died before the war in 1860 in Neosho, Missouri; Benjamin Franklin, who died in 1863 in a military hospital in Cane Hill, Arkansas, from wounds received in the Battle of Prairie Grove; and Lafayette, who survived severe war wounds and stayed in Washington County until his death in 1900. After completing his war service, Daniel Thales, who became a farmer, moved to Texas where he remained until his death in 1910. Considering the unsettling circumstances around Boone's death and the ensuing upheaval of the family, it is little wonder that the fate of the cane was unknown until its recent acquisition by the museum.

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Acknowledgement: The author would like to acknowledge Tim Leach and his father Jerry Leach for the roles they played in securing the cane for the museum collection. Their Leach ancestors were neighbors of Squire Boone in Rowan County, North Carolina. The cane can be viewed at the Arkansas Country Doctor Museum, 107 N. Starr Ave, Lincoln, AR 72744.

NOTES

1. Excerpted from the 7th U.S. Infantry Living History Association website: Expedition Natchez 1813: Becoming Old Hickory.
2. Excerpted from online source: The War of 1812 in Tennessee Driving Tour: Possbile Sites to Be Included (Draft), David Calease, Layton CaRr, Keith Schumann, for Dr. Carroll Van West, MTSU Center for Historic Preservation History 6610, January 2011.
3. Excerpted from Jackson's Last Will and Testament.
4. Summary of Staff Report, "The Hermitage Locates Andrew Jackson's Gold Box" as it appeared in the *Lebanon Democrat* online Dec. 30, 2014.

From the Daily Arkansas Gazette, Sunday, January 20, 1878

NOT LARCENY, BUT TRESPASS.

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About 11 o'clock on the night of April 15, 1876, Brice Mason, with two friends, called at the store of Nathan Dixon, in Cincinnati, Washington County, for beer. Dixon was in bed, and told them he would not get up, whereupon they said if he did not they would steal all he had in his store. Dixon threw himself into the arms of Morpheus and paid no more attention to his midnight customers. In the morning, however, on entering his store-room he discovered that a window had been pryed open and, on further examination he discovered his keg of beer on the porch under the window, and about thirty cents worth taken out. In a short time his honor, the 'Squire of the town came in, to whom Dixon related the affair. The 'squire told him it was a grand jury case. Dixon did not say anything more about it that day. The next morning Mason and his friends called and told him that they had taken the beer, and offered to pay him $3, which Dixon refused, stating that it was a grand jury case, and if they would pay him $30 he would give them a receipt in full as against the jury, which Mason refused. At the next term of court Mason and his friends were indicted for burglary and larceny, and Mason found guilt of petit larceny, from which decision he appealed to the Supreme Court. Judge Harrison, in his opinion yesterday, said that as criminal intent was one of the essential elements in larceny, and as the evidence failed to establish it in this case, that Mason and his friends were only guilty of trespass, and so reversed the decision of the court.

The Fayetteville and Ozark Turnpike Company

Editor's Note: In 1838, the state legislature approved acts establish several turnpike companies. Among them was the Fayetteville and Ozark Turnpike Company, intended to build a road between Fayetteville and the newly created town of Ozark on the Arkansas River. This road, in essence, became what today is known as the "Pig Trail," now a scenic byway running along Arkansas Highway 16 as far as Brashears and then following Arkansas Highway 23 south to Ozark. The full act was published in the

The act of incorporation refers to numerous sections contained within a similar act to establish the Western Turnpike Company but also appended to the Fayetteville and Ozark Turnpike Act. The Western Turnpike Company planned to build a road between Little Rock and Dwight, just west of present-day Russellville. Text of the appended sections is listed after the Ozark Turnpike Company Act.

An Act to incorporate the Fayetteville and Ozark Turnpike Company.

Be it enacted by the General Assembly of the State of Arkansas, That a company shall be, and the same is hereby, formed, for the purpose of making a road from Fayetteville to the town of Ozark, under the name and style of the "Fayetteville and Ozark Turnpike Company."

§2. The capital stock of said company shall consist of eight hundred shares, of fifty dollars each.

§3. Books of subscription for stock in said company shall be opened under the superintendence of the following named commissioners, at the following named places, to wit: At Fayetteville, under the superintendence of John Coutere, David Walker, L.D. Evans, L. Brodie, L.W. Wallace, and Robery McCamy; at Ozark,

Lithograph by A. Hoen & Co., Geology of Arkansas

A 19th century road across north Arkansas.

under the superintendence of William Cureton, William Hail, Joseph Russell, and Samuel Evans.

§4. The commissioners at the beforenamed places, shall procure one or more books, and in each of them enter as follows: "We, whose names are hereunto subscribed, do promise to pay, to the president, managers, and company, of the Fayetteville and Ozark Turnpike Company, the sume of fifty dollars for every share of stock in the said company set opposite our respective names, in such manner and proportions, and at such times, as shall be determined by the president and managers of said company, and agreeably to the act of the general assembly incorporating said company. Witness our hands, this —— day of —— in the year of our Lord one thousand eight hundred and ——."

§5. The commissioners shall give notice, in some newspaper printed in this state, that books will be opened on the second Monday of April next, for the purpose of receiving subscriptions for stock in said company, at which time and places some one or more of said commissioners above named, at each place, shall attend and permit all persons of lawful age, bodies politic and

corporate, to subscribe for stock, who shall offer, in said books, in their own names, or in the name of any other person who shall duly authorize the same, for any number of shares in said company.

§6. Said books shall be kept open, respectively, for the purpose aforesaid, by adjournment from place to place, and from time to time, until the whole number of shares shall be subscribed; of which adjournments, the said commissioners shall give such notice as the occasion may require.

§7. Every person subscribing for stock, in said books, in his own name or any other name, shall give to the attending commissioners a note payable to the president and managers of the Fayetteville and Ozark Turnpike Company, thirty days after the said company shall be organized, and the president and managers elected, for the amount of five dollars for each share of stock subscribed for.

§8. No subscriber for stock shall be bound to pay off his stock, nor shall the president and managers have power to call in more of said stock than five dollars on each share in any thirty days.

§9. The commissioners, as aforesaid, at Ozarks, shall, after said books have been kept open ninety days, send, as soon thereafter as possible, the whole amount or number of shares subscribed on their books, to the commissioners at Fayetteville, whose duty it shall be, if it appears that two hundred and fifty shares of said stock have been subscribed, to give notice to the commissioners at Ozark, and, likewise as soon as may be thereafter, to give at least thirty days' notice, in one or more of the newspapers printed in this state, that the number of shares required by the act of incorporation, have been subscribed, and that an election will be held at the court-house in the town of Fayetteville, to choose one president, seven managers, and one treasurer of said company, and such other officers as may be thought necessary to conduct the business of said company, for one year, and until other such officer shall be elected.

§10. Whenever the said company shall be so organized, they shall be a body politic and corporate, in deed and in law, by the

name, style, and title, of the president, managers, and company of the Fayetteville and Ozark Turnpike Company, and, by that name, the said subscribers shall have succession, and all the privileges and franchises incident to a corporation; and shall be capable of taking and holding he said capital stock, and the increase and profits thereof, and of enlarging the same from time to time, by new subscriptions, in such manner and form as may be deemed proper, if such enlargement shall be found necessary to fulfil [sic] the true intent and meaning of this act; and of purchasing, taking, and holding, to them and their successors and assigns, and of selling, transferring, and conveying, in fee simple, all such lands, tenements, hereditaments, and estate, real and personal, as shall be necessary to them in the prosecution of their works, and of suing and being sued, and of pleading and being impleaded, and of answering and being answered unto, and of defending and being defended, in all courts of law or equity in this state or elsewhere; and to make, have, and use, a common seal, and the same to break, alter, and renew, a pleasure; and to make such by-laws, not contrary to the constitution and laws of the United States and of this state, subject to be repealed, altered, or amended, at any general meeting of the stockholders, as may be necessary for the government of said president and managers, and the stockholders, and to do every matter and thing which a corporation or body politic may lawfully do.

§11. Each stockholder shall be entitled to one vote for each share of stock he may hold, and may either vote in person or by proxy.

§12. The president and three managers, or any four managers, without the president, shall form a quorum to transact business; and they shall meet at such places, and may be convened in such manner, as may be pointed out by the by-laws of said company.

§13. The provisions, privileges, and powers, and instructions, contained in the 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, and 41st sections of the act incorporating the Western Turnpike

Company, so far as the same shall be applicable, shall be considered to extend to, and for a part of, this charter; and the Fayetteville and Ozark Turnpike Company shall be governed and regulated thereby.

§14. It shall be the duty of the commissioners appointed under the provisions of this act, to open books for the subscription of stocks; and they are hereby authorized and empowered, after two hundred and fifty shares shall have been subscribed, and notice given for the stockholders to meet for the purpose of electing a president and managers, as before directed, to employ such number of surveyors, engineers, artists, and chain carriers, as they may thing necessary, and to enter into and upon all and every of the lands and inclosures, public roads and highways, in, through, and over which the said intended road may be thought proper to pass, and to examine the grounds most proper for the purpose, and the quarries or beds of stone, gravel, or clay, and other materials necessary for completion of said road, and to cause a map or chart of the same to be made from point to point, combining shortness of distance with the most practicable ground.

§15. As soon as any toll-gate shall be erected on said road, it shall be lawful for the president and managers of said company to appoint such and as many toll-gatherers as they may think proper, to collect and receive, of and from all and every person using the said road, the tolls and rates hereinafter mentioned, for every five miles' travel, and in proportion for a greater or less distance, and to stop and prevent any person riding, leading, or driving, an horse, jack, or mule, or driving any cattle, hogs, sheep, sulky, chair, phaeton, cart, wagon, or any other carriage of burthen or pleasure, from passing such gate, until toll shall have been paid agreeably to the following rates, to wit: For every score of hogs or sheep, six cents; for every score of cattle, eight cents; for every horse or mule, laden or unladen, with his rider, five cents; for every sulky, chair, or chaise, with one horse and two wheels, six cents, and with two horses, eight cents; for every coach, stage, phaeton, chair, chaise, coaches, or other wagon, with two horses

and four wheels, eighteen and three-fourths cents: for either of the carriages last mentioned, with four horses, thirty-seven and a half cents; for every other carriage of pleasure whatsoever, the like sums, according to the number of wheels and horses drawing the same; for every cart or wagon or other carriage of burthen, four cents for each horse or ox drawing the same.

§16. No toll shall be received, or toll-gate licensed to take toll, under the provisions of the twenty-fifth section of the act incorporating the Western Turnpike Company, until twenty miles of the said road shall have been made, progressively, commencing at the town of Fayetteville.

§17. The general assembly shall have power, from time to time, to alter and amend this charter.

§18. The company by this act incorporated, shall in no case, exercise any banking privilege, or issue any note or bill, for the purpose of circulating as a currency.

§19. The ground over which the said contemplated road shall pass, shall be dug down and leveled, so that, when completed, the elevation thereof shall not exceed four degrees.

§20. The general assembly shall have power and authority, after the termination of twenty-five years, to purchase said road of the stockholders, with all its appurtenances, by paying the said company the actual cost of the construction of said road, and ten per centum thereon, if the same shall be in repair; and if not in good repair, so much less as will be required to put the same in repair.

§21. This act shall take effect, and be in force, from and after its passage.

Approved; March 5th, 1838.

Relevant sections from the Western Turnpike Company Act appended to the Fayetteville and Ozark Company Act, as published in the May 23, 1838, issue of the Arkansas State Gazette under "Laws of Arkansas":

§11. The stockholders in said company shall meet on such day in every year, at such place as shall be fixed by the by-laws, for the purpose of choosing officers, as aforesaid, for the ensu-

ing year, in manner aforesaid, and at such times as they shall be summoned by the managers, in such manner and form as shall be prescribed by their by-laws; at which annual or special meetings, they shall have power and authority to make, alter, or repeal, by a majority of votes, as in manner aforesaid, all such by-laws, rules, orders, and regulations, as aforesaid, and enact and to do and perform any other corporate act.

§12. The president and managers first chosen, as aforesaid, shall procure certificates to be written or printed for all the shares of the stock of said company and shall deliver one of such certificates, countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person, for every share by him subscribed and held; which certificate shall be transferable at this pleasure, in person or by attorney, in the presence of the president, secretary, or treasurer, subject, however, to all payments due and to become due thereon; and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for that purpose, shall be a member of said corporation; and every certificate by him held, shall be entitled to one share of the capital stock, and of all the estate and emoluments of the company, and to vote at the meetings thereof.

§13. The president and managers shall meet at such times and places, and be convened in such manner, as shall be agreed on, for transacting their business; at which meeting, four members shall form a quorum, who, in the absence of the president, may choose a chairman, and shall keep minutes of their transactions, fairly entered in a book; and, a quorum being met, they shall have power to agree with, and appoint, all such surveyors, superintendents, artists, and officers, as they shall adjudge necessary to carry on the intended work, and to fix their salaries or wages; to ascertain the time, manner, and proportion, when the stockholders shall pay the money due on their respective shares, in order to carry on the work; to draw orders on the treasurer for all money necessary to pay the salaries or wages of persons by them employed, and for the labor done and materials provid-

ed in the prosecution of the work; which orders shall be entered or registered in the book of minutes, and shall be signed by the president, or, in his absence, by the chairman of the board; and generally to do all such other acts, matters, and things, as, by the by-laws, rules, orders, and regulations, of the company, shall be committed to them.

§14. If any stockholder, original subscriber or assignee, after thirty days' notice in the public papers before mentioned, of the time and place appointed for the payment of any proportion or instalment of said capital stock, in order to carry on the work, shall neglect to pay such proportion for the space of thirty days after the time appointed for the payment thereof, every such stockholder, in addition to the instalment so called for, shall pay at the rate of five per centum per month for every delay of such payment; and if the same, and the additional penalty, shall remain unpaid for such space of time as to make the accumulated penalty amount to the sums before paid in part and on account of such share, the same shall be forfeited by and to the said company, at an public meeting of the managers thereof, and may be sold by them to any other person or persons willing to purchase, for such price as can be had thereof; or, in default of payment of any such stockholder, of any such instalment, as aforesaid, the said president and managers may, at their election, cause suit to be brought, in any court having competent jurisdiction, for the recovery of the same, together with the penalty aforesaid, or before a justice of the peace, as the case may be.

§15. No stockholder, whether an original or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, unless the whole sum due and payable, as aforesaid, on the share or shares held by him at the time of such election or general or special meeting of said company, shall have been fully paid and discharged, as aforesaid.

§16. [Does not apply to the Fayetteville and Ozark Turnpike]

§17. If the commissioners should differ in opinion as to the most proper route, the difference shall be determined by a majority of the votes of the commissioners; and after being so

agreed on, the commissioners shall lay the plan and map of said road before the general meeting of the stockholders, at their first meeting to elect a president and managers; and if approved of by the general meeting of the stockholders, it shall be the route and site of the said road. All the expenses necessarily incurred in the examination, marking, and surveying the route for said road, shall be certified to the president and managers, by the commissioners aforesaid, who shall pay and defray the expenses so incurred, out of the funds of the company.

§18. If the said commissioners should fail, refuse, or neglect, to run out and mark said route, and report to the first meeting of the stockholders, or if the stockholders should disagree to the route laid down by the commissioners, then and in that case it shall be the duty of the president and managers of said company, to perform the duties as laid down in the seventeenth section of this act.

§19. It shall and may be lawful for the said president and managers, their superintendents, surveyors, artists, and chain bearers, to enter into and open all and every the lands and inclosures, public roads and highways, through and over which the said intended turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and beds of stone, gravel, clay, and other materials, in the vicinity, that will be necessary in making and constructing said road, and to survey, lay down, ascertain, make, and fix thereon, such route or track for the said road, as, in the best of their judgment and skill, may combine shortness of distance with the most practicable from [Fayetteville to Ozark].

§20. It shall and may be lawful for the president and managers, by and with their superintendents, engineers, artists, and workmen, and laborers, with their tools and instruments, carts, wagons, sleds, and carriages, and beasts of draught and burden, to enter upon the lands in and contiguous and near to which the route and track of said road shall pass, for the purpose of making and constructing said road, and procuring materials therefor; and if the president and managers cannot agree with the

owners of the lands upon which the said road shall be opened, or from which gravel, stone, clay, or other material may be required, it shall be lawful for the owner of the lands over which said road may pass, or the owner of any stone quarry, clay, or other material, which may be required in the construction of said road, and the president and managers of said company, to appoint several suitable and disinterested persons, to estimate the damages which the owner of the land, stone, gravel, clay, or other material necessary for the construction of said road, may sustain, who shall be sworn fairly and impartially to estimate the same; and if the owners of any such land, gravel, stone, clay, or other material, necessary for the construction of this road, shall neglect or release to join in the choice, the said persons shall be appointed by any disinterested magistrate of the county where such valuation is to be made.

§21. The person chosen or appointed as aforesaid, in making such valuation, shall take into consideration the advantages arising to the owner of such lands, stone, gravel, or clay, on account of the making of such road; and where no damages shall be paid, the owner shall pay the costs and expenses incurred by such appointment.

§22. Whenever it shall become necessary to subject the lands or materials for constructing said road to the use of said turnpike company, and the consent of the proprietor or owner cannot be obtained, it shall be lawful for the president, managers, and company, and for their superintendents, agents, artisans, contactors, and laborers, by order of said company, to enter upon said lands, and carry away such stone, gravel, clay, or other material, to make and construct said road. The pendency of any proceedings in court, or before assessors or valuers, to ascertain the damages that will be sustained by the owner of such land, stone, gravel, clay, or other materials, from opening and constructing such road, shall in no wise hinder or delay the progress of said work; the true intent and meaning of this act being, that all injury which may be done to any land, without the consent of the owner thereof, by opening and constructing

the said road, over and above the advantages of said road to the owner of said land, shall be fully and completely compensated for, in damages, when ascertained.

§23. If such damages shall not be paid when ascertained by the award of the said valuers, the owner of the said lands, stone, gravel, clay, or other materials, may, at the first term of the circuit court of the county in which such lands may be, present such award to the said court, and, upon motion, judgment shall be entered against the said turnpike company, and execution shall be issued thereon against said company; and the award of such valuers, and the refusal to pay the amount, shall be sufficient notice to said company that application will be made for judgment thereon.

§24. The president, managers, and company, shall erect permanent bridges over the creeks and waters crossed by such route or track, when the game shall be found necessary and practicable; and shall cause a road forty feet in width, to be laid out and made, from opposite the city of Little Rock, to Dwight, in the county of Pope; of which forty feet, the president and managers and company shall be bound to make an artificial road, at least twenty feet wide, of firm, compact, and substantial materials, compose of clay, gravel, pounded stone, or other small hard substance, in such a manger as to have a good foundation and an even surface, as far as the nature of the country and the materials will admit, in the whole length or extent of said road, whenever it shall be necessary, and the natural surface will require it, so as to fulfil [sic] the duties of said company to the public, and to conform to the true intent and meaning of this act; and shall for ever thereafter maintain and keep the same in good repair.

§25. As soon as the said president and managers shall have perfected any distance of said road, not less than twenty miles, progressively, from Little Rock, they shall give notice thereof to the governor of this state, who shall thereupon forthwith nominate and appoint three judicious and disinterested persons to view and examine the same, and report to him whether the road is so far executed in complete and workmanlike manner, accord-

ing to the true intent and meaning of this act; and if their report be favorable, then the governor shall, by license, under his hand and the seal of the state, permit and suffer the said president, managers, and company, to erect and fix such and so many gates upon and across the said road, as will be necessary and sufficient to collet the tolls and duties hereinafter granted to the said company, from all persons traveling with horses, cattle, wagons, carts, carriages, and other vehicles.

§26. No gate shall be erected, or toll demanded from any person traveling said road, until after the license aforesaid shall have been granted, under the penalty of ten dollars, to be recovered before any justice of the peace, for every offence; which penalty, when collected, shall be paid into the county treasury of the county in which the offence happened; nor shall any gate be erected within one mile of any city or town on said route; and no toll shall be demanded from any person for passing or repassing from one part of his farm to another, or to or from any place of public worship, or funeral, or from any militia man on days of training, or from electors going to or returning from any election.

§28. If any person, leading, riding, or driving any carriage of burden or pleasure, as aforesaid, or driving, riding, or leading any horse or mule, or leading or driving any hogs, sheep, or cattle, as aforesaid, shall, with an intent to defraud the said company, or to evade the payment of any of the tolls or duties aforesaid, pass through any private gate or bars, or along or over any passage-way, or along or over any ground near to or adjoining any gate which shall be erected in pursuance of this act; or if any person shall, with intent aforesaid, take off, or cause to be taken off, any horse, or other beast or cattle of draught or burden, from any carriage of burthen or pleasure, or shall practice, by any fraudulent means or device, with the intent to lessen the payment or any such toll or duty, every person so offending in manner aforesaid, shall, for every such offence, forfeit and pay, to the president, managers, and company, of the Western Turnpike Company, the sum of ten dollars, to be recovered by action

of debt on this act, in any county where the offence happened.

§29. If, at any time, the said road shall be out of repair, it shall and may be lawful for any person to give information to any justice of the peace in any county in which such road is out of repair, whose duty it shall be to issue his precept, directed to any constable of said county, commanding him to summon three judicious householders, to meet at a certain time in the said precept to be mentioned, at the place on the said road which is complained of, of which meeting notice shall be given to the keeper of the toll-gate nearest thereto; and the said justice shall, a such time and place, by the oath of the said householders, inquire whether the said road, or any part thereof, is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made, under the hands and seal of the said justice, and a majority of the said householders; and if the said road shall be found, by the inquisition of the said justice and householders, not to be in such good order and repair as is in this act required, the said justice shall so certify, and send on copy of such inquisition to each of the keepers of the toll gates between which such defective places may be; and from thenceforth, the tolls in this act allowed to be collected at such toll-gates, for the intermediate distance between them, shall cease to be demanded, paid, or collected, until the said defective part or parts of the said road shall be put in god and perfect order and repair, as aforesaid; and if any of the keepers of the gates aforesaid shall take or attempt to exact tolls for the intermediate distance between the gates aforesaid, from any traveler, during the time the road shall continue out of repair, such keeper shall forfeit and pay, to the person who shall sue for the same, the sum of ten dollars.

§30. If the said road shall not be put in good order and repair before the next term of the circuit court for said county, the justice shall certify and send a copy of said inquisition to the judge of said court; and the said court shall thereupon cause process to be issued, and bring in the bodies of the person or persons entrusted by the company with the care and superintendence of such part of the said road as shall be found defective as afore-

said, and shall direct a bill of indictment to be sent to the grand jury, against the person or persons entrusted as aforesaid; and, upon conviction, shall give such judgment, according to the nature of the aggravation of the neglect, as the said court, in their discretion, shall judge proper, not less than ten, nor more that five hundred dollars; and the said sum shall be paid into the county treasury.

§31. The president and managers of said company shall keep fair and just accounts of all moneys which shall be received by them, from the subscribers for the stock of the said company, on account of their several subscriptions, and of all penalties for the delay of payment thereof, and of the amount of the profit on the shares which may be forfeited, as aforesaid, to the company, and, also, of all moneys by them expended in the prosecution of the works; and shall, once at least in every year, submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all costs, charges, and expenses, of effacing the same, shall be fully paid and discharged and the aggregate amount of such expenses shall be liquidated and ascertained; and it, upon such liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road, according to the true intent and meaning of this act, it shall be lawful for the said president, managers, and company, at a stated or special meeting, to be convened according to the provisions of this act or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to open books of subscription for such additional shares as shall be for the benefit of the company, as they may think proper, and to demand and receive the moneys subscribed, or sold for such shares, in like manager, and under the like penalties, as herein provided for the original subscription, or as shall be provided by their by-laws.

§32. The said presidents, managers, and company shall keep a just and true account of all and every the moneys to be received by their several and respective collectors of toll at the

several gates on the said road, which shall not exceed one for every ten miles after the road is completed from the beginning to the end, or such part thereof as shall from time to time be completed as aforesaid; and after the said road shall be completed, or so much thereof as may from time to time be deemed expedient to make and finish, shall make and declare a dividend of the clear profits, and increase thereof, all contingent costs and charges, and a reasonable fund for repairs and progressive improvements, and accomplishing of the work, being first deducted and reserved, among the subscribers to the stock of the said company; and shall, on the first Monday of April and October, in every year, publish the half-yearly dividends to be made of clear profits among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be accordingly.

§33. The said president and managers shall, at least once in two years after the company shall be organized, lay before the general assembly of this state, during the session, an abstract of their accounts, showing the amount of their capital expended in the prosecution of their work, and of the income and profits arising to the said company from tolls, for and during the said respective periods, together with an abstract of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, and such other general information respecting the company, and their progress, as they may think necessary, to the end that the clear annual income and profits thereof may be ascertained and known.

§34. The said company shall cause a post to be set up at the intersection of every road falling in and leading out of the said turnpike road, with boards and an index-hand pointing to the direction of such road; on both sides thereof shall be inscribed, in legible characters, the name of the town or place to which said road leads, and the distance thereof, in measured or computed miles; and shall also cause mile-stones or posts to be placed on the side of said turnpike road to designate the distance to and from the principal places thereon; and, also, shall cause to be

affixed, on the gates to be erected, for the information of travelers and others using the said road, a list of rates of toll, which from time to time may be lawfully demanded; and if, at any time, it shall appear that the clear increase and profits will not yield a dividend of ten per centum per annum on the capital stock so expended from the time of investing the same, then it shall and may be lawful for the president and managers to increase the toll herein-before allowed, so much on each and every allowance thereof as will raise the dividend up to ten per centum per annum; and if, at any time, it shall appear, by the said abstract, that the said increase and profits will yield a dividend exceeding twelve per centum per annum, then the said toll shall be reduced so as to reduce the dividend to twelve per centum per annum.

§35. If any person shall willfully deface, break, pull down, up, or prostrate, any mile-stone or mile-post, which shall be placed, in pursuance of this act, on the side of said road, or shall obliterate the letters or figures inscribed thereon, or shall willfully break, pull down, or injure, any direction-post which shall be erected in pursuance of this act, at the intersection of any road as aforesaid, or the board or index-hand affixed thereto, in conformity with the direction of this act, or shall obliterate the letters or figures marked thereupon, the person so offending, shall, for every such offence, forfeit and pay, to the said president, managers, and company, the sum of twenty dollars, to be recovered by action of debt before any justice of the peace having jurisdiction thereof.

§36. All wagoners, carters, and drivers of carriages of all kinds whatsoever, of burthen or pleasure, using said turnpike road, shall, except when passing by a carriage of slower draught, keep their carriages and horses on the right side of the said road, in the passing direction, leaving the other side of said road free and clear for other carriages and wagons to pass and repass; and if any carter, wagoner, or driver, shall offend against this provision, he shall forfeit and pay any sum, not exceeding ten dollars, to any person who shall sue for the same, to be recovered before any justice of the peace.

§37. If any toll-gatherer on the said road shall demand from any person using said road, and greater rate of toll than is allowed by this act, such toll-gatherer shall forfeit and pay the sum of ten dollars for each and every offence, to be recovered before any justice of the peace, in the name of any person who shall sue for the same.

§38. No suit or action shall be brought or prosecuted for any penalties incurred under the provisions of this act, whether by or against the company, unless such suit shall be brought within six months next after the fact shall have been committed, unless the party, of their own act, prevent its being done sooner; and the defendant or defendants in such suit or action may plead the general issue, and give this act the special matter in evidence, and that the same was done in pursuance and by authority of this act.

§39. If the said company shall not, within three years, proceed to carry on the work, or shall not, within five years thereafter, complete the same, according to the true intent and meaning of this act, then, and in either of such cases, it shall be lawful for the general assembly of this state to resume all and singular the rights, liberties, and privileges, and franchises, granted by this act to said company.

§40. The ground over which said contemplated road shall pass, shall be dug down and leveled, so that when completed the elevation thereof shall not exceed three and one half degrees.

§41. It shall be lawful for the said president, managers, and company, to demand and take from the treasurer, gate-keeper, or other person employed by them, bond and security for the faithful discharge of their duties; and all bonds so taken or given by the company, shall be in the name of the president, managers, and company, of the Western Turnpike Company.

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Current Rates (subject to change)			
Individuals Ages	Rate	Couples Ages	Rate
65	4.7%	Husband 65, Wife 60	4.0%
70	5.1%	Husband 70, Wife 65	4.4%
75	5.8%	Husband 75, Wife 70	5.8%
80	6.8%	Husband 80, Wife 75	5.3%

Rates are for illustration purposes only. The Arkansas Community Foundation will design a gift annuity to benefit you and the Washington County Historical Society.

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Contact Katie Tennant, executive director of Fayetteville Area Community Foundation, a local affiliate office of Arkansas Community Foundation. Contact her at fayettevillearea@arcf.org or 479-444-6880.

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